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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/622,491

09/05/2000

Ernst Messerschmid

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03/09/2005

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EXAMINER

ZIMMERMAN, BRIAN A

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/622,491

Applicant(s)

MESSERSCHMID ET AL.

Examiner

Brian A Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57-89 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-89 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **EXAMINER'S RESPONSE**

### **Status of Application**

In response to the applicant's amendment received on 12/17/04. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 57-89 are unpatentable for the reasons set forth in this office action:

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," "Are disclosed," etc.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 57,58,60-62,64-71,74-76,78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop (2001/0040503) in view of Badger (5729192).

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Bishop shows a vehicle device that includes a plurality of components (figures 6b. through 6e.) that can receive radio signals, evaluate the radio signals and deactivate the components in the system. Since at least one of Bishop's components can operate to prevent operation of the object, Bishop meets the claimed limitation of "any one of the plurality of components ... to prevent operation of the object." It is noted that "any one of" does not specify that each component can provide this function. See also paragraph 0031.

In an analogous art, Badger shows vehicle-disabling system where a component receives a radio signal from flying bodies 38. The receiving component, once determining a proper signal has been received, then permanently disables one of a plurality of components. See col. 2 lines 13-15 and col. 6 lines 15-19. Since this is a permanent deactivation, the part must be replaced in order for the part or component to work again. Badger shows the satellite 38 is in the air, and can therefore be considered an airship. The receivers of Badger include decoder logic and are integrated in the vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the disabling component disable multiple other components in the vehicle to eliminate the need for disabling elements in every component and improve the ability to completely disable the unit or vehicle.

Regarding the limitation of having a check sum in the communication for error detection, it is the examiner's position that the use of a check sum in a communication for error detection is very well known and common in the art at the time of the invention.

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Regarding the term worldwide ID, the use of unique identification in Badger and Bishop is equivalent to the claimed worldwide ID.

The examiner takes official notice that paging signals (like those of Bishop) commonly occur once in a time period and can alternately be transmitted periodically in order to ensure reception.

2. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Badger as applied to claim 57 above, and further in view of Besharat (6219540).

In an analogous art, Besharat shows an indication to the user that the user should bring the communication device within range to improve normal operation of the communication device. See figure 3. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have indicated an out of range error to the user to avoid improper operation of the above modified disablement system.

3. Claims 63 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Badger and Bishop as applied to claim 57 above, and further in view of Hertel (5532690).

In an analogous art, Hertel shows a vehicle disabling system that disables the vehicle after a time delay in order to safely provide disabling of the vehicle. See col. 5 lines 15+.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a time delay in disabling the vehicle in the above discussed system in order to ensure safe disabling of the vehicle.

4. Claims 72,73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Badger as applied to claim 57 above, and further in view of Suzarka (6285860).

In an analogous art, Suzarka shows a vehicle shutdown or disable system that uses an interrogation-response communication to determine the location and authentication of the vehicle in order to properly disable the desired vehicle. See abstract. Therefore, it would have been obvious to have used interrogation-response communication in order to provide improved security in the disable system discussed above.

5. Claims 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop (2001/0040503) in view of Badger (5729192).

Bishop shows a vehicle device that includes a plurality of components (figures 6b. through 6e.) that can receive radio signals, evaluate the radio signals and deactivate the components in the system. Paragraph 0031 suggests that the embodiments of figures 2a and 2b can be combined into a single embodiment; such combination would provide two operating components 203 to control the vehicle accessory 205. As discussed in paragraph 31 this would provide redundancy in the system. Redundancy is a form of confirmation, therefore,

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Bishop meets the limitation of each operating component receiving a radio signal and controlling the activation of the vehicle while communicating with each other to provide confirmation.

In an analogous art, Badger shows vehicle-disabling system where a component receives a radio signal from flying bodies 38. The receiving component, once determining a proper signal has been received, then permanently disables one of a plurality of components. See col. 2 lines 13-15 and col. 6 lines 15-19. Since this is a permanent deactivation, the part must be replaced in order for the part or component to work again. Badger shows the satellite 38 is in the air, and can therefore be considered an airship. The receivers of Badger include decoder logic and are integrated in the vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the disabling component disable multiple other components in the vehicle to eliminate the need for disabling elements in every component.

Regarding the limitation of having a check sum in the communication for error detection, it is the examiner's position that the use of a check sum in a communication for error detection is very well known and common in the art at the time of the invention.

Regarding the term worldwide ID, the use of unique identification in Badger and Bishop is equivalent to the claimed worldwide ID.

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The examiner takes official notice that paging signals (like those of Bishop) commonly occur once in a time period and can alternately be transmitted periodically in order to ensure reception.

6. Claims 85,87,88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Badger as applied to claims 79,80 above, and further in view of Kaish (4494114).

In an analogous art, Kaish shows a disabling device that renders electronic appliances inoperable to prevent or dissuade theft. The examiner takes official notice that the claimed elements set forth in these claims are common well-known electronic appliances. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the above modified disabling system to render electronic keys and smart cards inoperable in order to deter theft.

7. Claims 86 and 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop and Badger as applied to claims 79 above, and further in view of Rohrbach (5898783).

In an analogous art, Rohrbach shows a disabling device that renders portable telephone appliances inoperable to prevent or dissuade theft. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used the above modified disabling system to render portable telephone appliances inoperable in order to deter theft.



### ***Response to Arguments***

Applicant's arguments filed 12/17/04 have been fully considered but they are not persuasive.

The applicant argues that nothing in Bishop suggests that the relays themselves intercommunicate to determine if at least one of them has received a radio signal to initiate deactivation. First it is pointed out that claim 57 does not require that each component provide the feature of receiving. Claim 57 requires the plurality of components check with each other to determine whether at least one component received the radio signal. The embodiment discussed in the rejection of claim 57 provides one component that receives the radio signal and the other components operate to perform a check to initiate deactivation if the at least one component has not received the radio signal.

The applicant argues that there is no motivation to combine the Badger and Bishop references. The examiner has pointed out motivation to combine the references. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art**. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the disabling component disable multiple

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other components in the vehicle to eliminate the need for disabling elements in every component and improve the ability to completely disable the unit or vehicle.

The applicant argues that there is no motivation to combine the Badger, Bishop and Hertel references. The examiner has pointed out motivation to combine the references. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art**. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, , it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a time delay in disabling the vehicle in the above discussed system in order to ensure safe disabling of the vehicle.

Regarding claim 79, the applicant argues that Bishop fails to teach the plurality of components communicating to provide confirmation. As discussed in paragraph 31 of Bishop, the present embodiment would provide redundancy in the system. Redundancy is a form of confirmation, therefore, Bishop meets the limitation of each operating component receiving a radio signal and controlling the activation of the vehicle while communicating with each other to provide confirmation. The applicant may use a different form of confirmation, however

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redundancy as a the method of confirmation provides the functionality as presently claimed. The applicant argues that Bishop fails to teach that a plurality of components is structured to receive a radio signal. The applicant argues that Bishop teaches a single receiver in the car receives the radio signal. The embodiment discussed with regards to the rejection of these claims includes a plurality of components 203, each receiving the radio signal in question.

The applicant continually makes general allegations that some claims (59,63,72,73,77,85-89) are patentable over the prior art yet fails to specifically point out what limitations are not met by the explanation offered by the Examiner in the Office Action.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

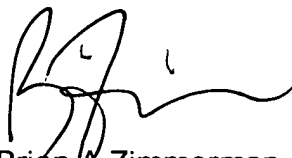
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on Off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian A Zimmerman  
Primary Examiner  
Art Unit 2635

BAZ